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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,454	02/13/2004	Juergen Dickmann	3926.063	8976

41288

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PATENT CENTRAL LLC

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EXAMINER

ART UNIT

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Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)

The Appeal Brief filed on May 19, 2009 is defective for failure to comply with 37 CFR 41.37(c)(1)(v). The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters. The paragraphs the applicant has identified as containing the claimed subject matter are incorrect. For example, the applicant has identified paragraph 30 as setting forth the sensor means including at least one light source. However, paragraph 30 of the specification filed February 13, 2004 does not refer to the sensor means including at least one light source. Additionally, the summary of claimed subject matter for claim 1 improperly includes "(preferably provided on circuit board 6, paragraph [0031])". Since the circuit board is not part of claim 1, it should not be included in the summary of the claimed subject matter for claim 1. Also, the summary of the claimed subject matter for claims 1 and 6 is not concise since it improperly includes additional superfluous paragraphs explaining the benefits of the claimed subject matter. The summary of the claimed subject matter is limited a "mapping" of the claim language. Finally, the applicant has failed to properly argue the patentability of the dependent claims. For example, the applicant has failed to properly argue the separate patentability of claim 4 because the applicant has failed to set forth why the specific limitations of claim 4 are separately patentable. Note that the "argument" for the patentability of claim 4 in the brief of May 19, 2009 is analogous to a statement that

claim 4 is patentable because it depends from claim 1. The argument for the patentability of claim 4 does not set forth why the recitation of the non-planar mirror being pivotable and micro-mechanically driven is separately patentable.

It should be noted that the applicant's time period set forth in the previous Office action continues to run.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634